



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2011-2012

August 17, 2016

Samuel Ellenburg
Millennium Technology, Inc.
5107 Avenue H
Brooklyn, NY 11234

Re: Applicant Name: GESHERHA TORAH DAY SCHOOL
Billed Entity Number: 16062430
Form 471 Application Number: 805952
Funding Request Number(s): 2185722
Your Correspondence Received: July 07, 2016

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of USAC's Funding Year 2011 Notification of Improperly Disbursed Funds Recovery Letter for the Application Number indicated above. This letter explains the basis of USAC's decision. The date of this letter begins the 60 day time period for appealing this decision. If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 2185722
Decision on Appeal: **Denied**
Explanation:

- During a Payment Quality Assurance (PQA) review, it has been determined that funds were improperly disbursed for this funding request. The equipment for which you requested discounts has not been utilized in accordance with program rules. FCC rules require that applicants have secured all the necessary resources to make effective use of the equipment and that the equipment is utilized for an educational purpose. Dell PowerEdge 710-\$15,750.00, Dell UPS 3750W-4U - \$2,655.00, Sonic Wall NSA 2400 - \$3,870.00 and Cat6 Non Boot Patch Cable - \$15.13 was located in the Main Office and was not installed, hooked up or in use. Since a review has revealed that equipment has not been utilized according to program rules, USAC will seek recovery of all funds improperly disbursed that are associated with the equipment not being utilized. Accordingly, USAC will seek recovery of \$21,554.83 of improperly disbursed funds from the applicant.

During a Payment Quality Assurance (PQA) review, it was determined that the technology plan did not cover the entire funding year for this funding request. Program rules require that a technology plan be effective during the entire funding year in which the applicant is seeking support for services other than basic telecommunication service. On the Form 486 it was indicated that the services for FRN 2185722 began on 07/01/2011. Additionally, your Form 471 indicated 06/30/2012 as a Service End Date for this FRN. During the course of review it was discovered that your technology plan became effective on 07/30/2011, which was after the date your services commenced for this FRN. Therefore, USAC will seek recovery of improperly disbursed funds for this FRN from the applicant in the amount of \$1,873.47 for the part of the funding year not covered with the technology plan. In your appeal, you did not show that USAC's determination was incorrect. Consequently, your appeal is denied.

- USAC improperly disbursed funding for services that were not provided or equipment that was not installed as approved on the applicant's FCC Form 471. FCC rules authorize USAC to disburse funds to service providers for providing supported services to eligible entities. *See* 47 C.F.R. sec. 54.517. These rules are violated if the service provider receives payment for services and/or products that were not delivered to the eligible entity. In the Fifth Report and Order, the Commission stated that it would not be appropriate "for a beneficiary to retain an overpayment if, for some reason, USAC has mistakenly disbursed an amount in excess of that which the entity is allowed under our rules." *See* Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6, Fifth Report and Order and Order, 19 FCC 15817-18, FCC 04-190 para. 29 (rel. Aug. 13, 2004). The FCC further states that "the service provider is likely to be the entity that fails to deliver supported services within the relevant funding year, fails to properly bill for supported services" and therefore, in such cases the service provider should be a party to whom recovery should be directed. *See* Federal-State Joint Board on Universal Service, Changes to the Board of Directors for the National Exchange Carrier Association, Inc., Schools and Libraries Universal Service Support Mechanism, CC Docket Nos. 96-45, 97-21, 02-6, Order on Reconsideration and Fourth Report and Order, 19 FCC Rcd 15252, 15257, FCC 04-181 para. 15 (rel. Jul. 30, 2004).

Since your appeal was denied in full, dismissed or cancelled, you may file an appeal with the FCC. Your appeal must be postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found under the Reference Area/"Appeals" of the SLD section of the USAC website or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

We thank you for your continued support, patience and cooperation during the appeal process.